



Town of Cottesloe

I hereby certify that the minutes of the Council meeting held on
Tuesday, 21 February 2023
were confirmed as a true and accurate record by Council resolution.

Signed: 

Presiding Member

Date: 28.2.23

TOWN OF COTTESLOE



SPECIAL COUNCIL MEETING CONFIRMED MINUTES

SPECIAL COUNCIL MEETING
HELD IN THE
Council Chambers, Cottesloe Civic Centre
109 Broome Street, Cottesloe
5 pm Tuesday, 21 February 2023



MATTHEW SCOTT
Chief Executive Officer

23 February 2023

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Agenda and minutes are available on the Town's website www.cottesloe.wa.gov.au

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 5:04 pm.

I would like to begin by acknowledging the Whadjuk Nyoongar people, Traditional Custodians of the land on which we meet today, and pay my respects to their Elders past and present. I extend that respect to Aboriginal and Torres Strait Islander peoples here today.

2 DISCLAIMER

The Presiding Member drew attention to the Town's Disclaimer.

3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Presiding Member explained that the meeting start time was delayed due to a Quorum not being met and was awaiting one more Elected Member to start the meeting.

4 PUBLIC QUESTION TIME**4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

4.2 PUBLIC QUESTIONS

Nil

5 PUBLIC STATEMENT TIME**12.1.1. – Adverse Possession – Portion(s) of Right of Way (ROW) 20A & 20B****Andrew Jackson – Hawkstone Street Resident**

Mr Andrew Jackson spoke of his concerns regarding the Adverse Possession (ROW) claim and relating to Item 12.1.1.

Kim Leunig – 38 Florence Street, Cottesloe

Mr Leunig spoke in support of the Adverse Possession claim of Item 12.1.1.

Catherine Jackson – Hawkstone Street Resident

Ms Jackson spoke of her concerns regarding the Adverse Possession (ROW) claim and relating to Item 12.1.1.

Joanne Gibson – Hawkstone Street Resident

Ms Gibson spoke on behalf of Hawkstone Street Residents with their concerns regarding the Adverse Possession (ROW) claim and relating to Item 12.1.1

Briohny McManus – Hawstone Steet Resident

Ms McManus spoke of her concerns regarding the Adverse Possession (ROW) claim and relating to Item 12.1.1

Taziana Leunig – 38 Florence Street, Cottesloe

Mrs Leunig spoke in support of the Adverse Possession claim of Item 12.1.1.

6 ATTENDANCEElected Members

Mayor Lorraine Young

Cr Kirsty Barrett

Cr Paul MacFarlane

Cr Chilla Bulbeck

Cr Brad Wylynko

Cr Melissa Harkins (joined the meeting at 6:26 pm)

Officers

Mr Matthew Scott

Chief Executive Officer

Mr Shane Collie

Director Corporate and Community Services

Ms Freya Ayliffe

Director Development and Regulatory Services

Mr Shaun Kan

Director Engineering Services

Mr Ed Drewett

Coordinator Statutory Planning

Ms Jacquelyne Pilkington

Governance & Executive Office Coordinator

6.1 APOLOGIES

Cr Helen Sadler

Cr Craig Masarei

Officers Apologies

Nil

6.2 APPROVED LEAVE OF ABSENCE

Nil

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 DECLARATION OF INTERESTS

The Presiding Member declared an IMPARTIALITY INTEREST in Item 12.1.1 by virtue “some of the Hawkstone and Florence Street residents are known to me”.

Cr Barrett declared an IMPARTIALITY INTEREST in Item 12.1.1 by virtue “some of the Hawkstone and Florence Street residents are known to me”

Cr MacFarlane declared an IMPARTIALITY INTEREST in Item 12.1.1 by virtue “some of the Hawkstone and Florence Street residents are known to me:

8 PRESENTATIONS**8.1 PETITIONS**

Nil

8.2 PRESENTATIONS

Nil

8.3 DEPUTATIONS

Nil

For the benefit of the members of the public present, the The Presiding Member announced that items have been withdrawn for discussion. All other items will be dealt with en bloc.

9 REPORTS**9.1 REPORTS OF OFFICERS****10 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

11 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:**11.1 ELECTED MEMBERS**

11.2 OFFICERS

12 MEETING CLOSED TO PUBLIC

12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

SCM006/2023

MOTION FOR BEHIND CLOSED DOORS

Moved Cr MacFarlane Seconded Cr Wylynko

That, in accordance with Section 5.23(2)(d), Council discuss the confidential reports behind closed doors.

Carried 5/0

For: Mayor Young, Crs Barrett, MacFarlane, Bulbeck and Wylynko

Against: Nil

The public and members of the media were requested to leave the meeting at 5:28 pm

12.1.1 ADVERSE POSSESSION CLAIM - PORTION(S) OF RIGHT OF WAY (ROW) 20A & 20B

This item is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (d) as it contains information relating to legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.

SCM007/2023

Moved Cr Barrett Seconded Cr Bulbeck

Standing orders be suspended at 5:50 pm to discuss the Resolution for Item 12.1.1.

Carried 5/0

SCM008/2023

Moved Mayor Young Seconded Cr Bulbeck

That standing orders be resumed at 6:26 pm.

Carried 5/0

OFFICER RECOMMENDATION

THAT Council:

- 1. Acknowledge the legal advice received with regards to the adverse possession claim (O229323) by the owner of 38 Florence Street for a portion(s) of Right Of Way (ROW)

- 20 (20A & 20B);
2. Take no further action in relation to the caveat arranged by the Chief Executive Officer (CEO), acknowledging it will lapse on 28 February 2023;
 3. Authorise the CEO:
 - a. Seek further legal advice to manage and potentially prevent any further claims for adverse possession for any remaining portion(s) of ROW 20 (20A, 20B, or 20D); and
 - b. To continue to progress the transfer of any and all remaining ROWs currently in the name to the Town of Cottesloe to the Crown, as per the requirements of the Policy Pol/59 Right of Way; and
 4. Request the CEO to immediately and formally advise impacted residents of ROW 20 (including Florence Street and Hawkstone Street residents) of this decision, via a letter drop.

SCM009/2023

COUNCILLOR MOTION

Moved Cr Wylynko

Seconded Cr Bulbeck

THAT Council:

1. **Acknowledge the legal advice received with regards to the adverse possession claim (D229323) by the owner of 38 Florence Street for a portions of Right OF Way (Row) (20A & 20B);**
2. **Take no further action in relation to the caveat arranged by the CEO, acknowledging it will lapse on 28 February 2023;**
3. **Instruct the CEO, in order to mitigate future adverse possession claims, to:**
 - a. **Seek further legal and technical advice to manage and potentially prevent any further claims for adverse possession for any remaining portions of ROW 20 (20A, 20B or 20D);**
 - b. **To continue to progress the transfer of any and all remaining ROWs currently in the name to the Town of Cottesloe to the Crown; and**
 - c. **Undertake physical surveys and inspections, to achieve points 3(a) & (b).**
4. **Request the CEO to immediately and formally advise impacted residents of ROW 20 (including Florence Street and Hawkstone Street residents) of this decision, via a letter drop and email (where available); and**
5. **Instruct the CEO to review Policy Pol/59 Right of Way and present the reviewed policy to a future Council Meeting for consideration, by the May 2023 OCM.**

Carried 5/0

For: Mayor Young, Crs Barrett, MacFarlane, Bulbeck and Wylynko

Against: Nil

Councillor Rationale

Council modified the Officers Recommendation to better reflect Council's intent of the Resolution.

Cr Harkins joined the meeting after the Resolution had been voted on and passed.

SCM010/2023

MOTION FOR RETURN FROM BEHIND CLOSED DOORS

Moved Mayor Young Seconded Cr Bulbeck

In accordance with Section 5.23 that the meeting be re-opened to members of the public and media, and motions passed behind closed doors be read out if there are any public present.

Carried 5/0

For: Mayor Young, Crs Barrett, MacFarlane, Bulbeck and Wylynko

Against: Nil

The public and members of the media returned to the meeting at 6:26pm.

12.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC**12.1.1 ADVERSE POSSESSION CLAIM - PORTION(S) OF RIGHT OF WAY (ROW) 20A & 20B**

The resolution for item 12.1.1 was read aloud.

13 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 6.29 pm.